

1 JUDGE STIRMER: All right. Now, is there any  
2 evidence as to the impact this installation has had on  
3 the blanketing problem, as it exacerbated the  
4 blanketing problem?

5 MS. LADEN: Until this moment, I had not  
6 thought about that approach. I will find out whether  
7 it has or not.

8 JUDGE STIRMER: Because this, I take it, was  
9 not an authorized installation.

10 MR. DUNNE: That also is disputed,  
11 Your Honor.

12 JUDGE STIRMER: That is disputed?

13 MR. DUNNE: Yes, sir, it is. We have file  
14 documents with the FCC in response to that particular  
15 issue.

16 JUDGE STIRMER: Well, the Designation Order  
17 indicates that you filed an application, that the  
18 application was never granted up to this point, but  
19 notwithstanding that, you went and constructed a  
20 different antenna system.

21 MR. DUNNE: No. Your Honor, may I be heard  
22 on an issue?

23 JUDGE STIRMER: Sure.

24 MR. DUNNE: Part of the problem is that there  
25 was a license application filed that reported to

1        installation of a different antenna than the one that  
2        was authorized. In the license application, it  
3        specified the long antenna, it had the long serial  
4        number for the antenna, and it indicated, at least to  
5        the Bureau, that there was an antenna of a different  
6        directionality and power that was installed, and that  
7        was not correct. Subsequently, in response to a 30-day  
8        letter from the Bureau, the licensee filed a revised  
9        license application that pointed out that the only  
10       difference was the number of bays.

11                Now, there is a Rule 73-16-90 that talks  
12       about when you have to file an application to modify  
13       your authorization, and you have to modify your  
14       authorization when you install an antenna of a  
15       different directionality, two meters, up and down the  
16       tower, or one or two other things. It does not say  
17       anything about when you have a different number of bays  
18       that do not affect the directionality in any way, and  
19       it is our contention, with my advice and also that of  
20       the consulting engineer, that when you install an  
21       antenna that has absolutely the same directionality,  
22       and that was what we were told by the antenna  
23       manufacturer that was the case, that the only change  
24       was the number of bays. It did not change the location  
25       on the tower of the center of radiation, the

1           directionality of the antenna, et cetera, so we could  
2           do it by filing a license application.

3                   JUDGE STIRMER: Well, what did it do? What  
4           changes resulted from the utilization of the seven-bay  
5           antenna from the four-bay antenna?

6                   MR. DUNNE: Your Honor, frankly, I do not  
7           know, but I was assured by the consulting engineer and  
8           the antenna manufacturer that it did not do any of the  
9           things that are specified in Section 73-16-90 --

10                  JUDGE STIRMER: Well.

11                  MR. DUNNE: -- that require an application.

12                  JUDGE STIRMER: There must have been a reason  
13           why you changed from a four-bay to a seven-bay.

14                  MR. DUNNE: Your Honor?

15                  JUDGE STIRMER: There must have been some  
16           change.

17                  MR. DUNNE: Whatever that change was,  
18           Your Honor, I do not know exactly what it is, frankly,  
19           but I was assured it was not among those things that  
20           are listed as those required.

21                  JUDGE STIRMER: Well, that is a matter in  
22           issue in this case.

23                  MR. DUNNE: That is correct, Your Honor.

24                  JUDGE STIRMER: And I think we are going to  
25           have to learn a lot about that. It will strike me as

1           being, I mean, an application was filed.

2                   MR. DUNNE: It was a license application, a  
3           grant.

4                   The issue was whether Calvary should have  
5           filed an application to modify its license to specific  
6           this antenna, and the issue is basically the  
7           interpretation of Rule 73-16-90, because the antenna  
8           that was installed on the tower did not do any of the  
9           things that are specified in that rule that require the  
10          filing of a modification application.

11                  JUDGE STIRMER: I think I want to hear about  
12          that from the Bureau.

13                  All right. Is there anything else we have to  
14          talk about at this time, before we go off the record  
15          and see if we can agree on the schedule?

16                  MS. LADEN: Nothing, Your Honor.

17                  JUDGE STIRMER: All right. Mr. Dunne?

18                  MR. DUNNE: No, Your Honor.

19                  JUDGE STIRMER: Okay. Off the record.

20                  (Discussion was held off the record.)

21                  JUDGE STIRMER: We are back on the record.

22                  In an off-the-record discussion, the  
23          following schedule was adopted.

24                  On or before October 2, 1992, all discovery  
25          shall be completed. There will be an exchange of the

1 MS. LADEN: Yes, Your Honor.

2 JUDGE STIRMER: All right. Is there anything  
3 further we need to consider at this time?

4 If not, we will stand in recess. If there is  
5 a need for a further conference, let me know, and I  
6 will schedule one.

7 In the interim, I would urge you all to work  
8 together to see if you can stipulate and agree on what  
9 documents are relative, and what facts are beyond  
10 dispute

11 And if the licensee elects to pursue a  
12 distress sale, Mr. Dunne, please advise us all as  
13 promptly as possible.

14 MR. DUNNE: Yes, sir.

15 JUDGE STIRMER: All right. If there is  
16 nothing further, then we will at this time stand in  
17 recess. Thank you, very much.

18 (Whereupon, at 9:50 a.m., the prehearing  
19 conference was closed.)  
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21  
22  
23  
24  
25

C E R T I F I C A T E

This is to certify that the attached proceedings  
before the FEDERAL COMMUNICATIONS COMMISSION  
in the matter of: POPLAR BLUFF, MISSOURI

Docket Number: 91-308

Place: Washington, D.C.

Date: July 16, 1992

were held as herein appears, and that this is a true  
and accurate record of the proceedings.

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